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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRIAN BURKE

Plaintiff,

- against -

NOTICE OF MOTION

Solomon Acosta & FAScore/Great West &
MTA/NYC Transit Authority Et. Al,

2007 Civ. 9933 (PKC) (DFE)

Defendants.

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PLEASE TAKE NOTICE, upon the annexed Declaration of Ching Wah Chin, dated January 14, 2008 and the exhibits annexed thereto, Defendants' Memorandum of Law in support of their Motion to Dismiss, dated January 14, 2008, and all other pleadings and proceedings herein, Defendant Metropolitan Transportation Authority will move on **February 8, 2008**, before the Honorable P. Kevin. Castel of the Southern District of New York, at the United States Courthouse, 500 Pearl Street, New York, New York, or as soon as counsel may be heard for an order pursuant to Rule 12b(6) of the Federal Rules of Civil Procedure dismissing the complaint on the ground that it fails to state a claim upon which relief may be granted and granting such other relief as to this Court seems proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, must be served on the undersigned by **January 28, 2008**

Dated: New York, New York
January 14, 2008

JAMES B. HENLY

BY /s/
Ching Wah Chin

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